

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONALD WALDEN JR., NATHAN
ECHEVERRIA, AARON DICUS, BRENT
EVERIST, TRAVIS ZUFELT, TIMOTHY
RIDENOUR, and DANIEL TRACY on
behalf of themselves and all other similarly
situated,

Plaintiffs,

v.

STATE OF NEVADA, *EX. REL.* ITS
DEPARTMENT OF CORRECTIONS, and
DOES 1-50,

Defendant(s).

Case No.: 3:14-cv-00320-LRH-WGC

**JOINT SUBMISSION OF AMENDED
PROPOSED NOTICE AND CONSENT
TO JOIN**

AND ORDER THEREON

Pursuant to this Court's Order granting Plaintiffs' motion for conditional certification (Doc. #45), the parties hereby jointly submit the amended proposed notice and consent to join for this Court's signature.

/ / /

/ / /

1 The amended proposed notice and consent to join are attached hereto as Exhibits A and B,
2 respectively.

3
4 Dated this 26th day of March, 2015.

5
6 /s/Joshua D. Buck
Mark R. Thierman, Bar # 8285
7 Joshua D. Buck, Bar # 12187
Leah L. Jones, Bar #13161
8 7287 Lakeside Drive
9 Reno, Nevada 89511

10 *Attorneys for Plaintiffs*

/s/Janet Traut
Ann M. McDermott, Bar # 8180
Janet Traut, Bar # 8695
Bureau of Litigation
Personnel Division
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

Attorneys for Defendant

11
12
13 **ORDER**

14
15 IT IS SO ORDERED.

16 DATED this 30th day of March, 2015.

17
18 
19 Larry R. Hicks
United States District Judge

EXHIBIT A

EXHIBIT A

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7 *Attorneys for Plaintiffs*

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10 DISTRICT OF NEVADA
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16 Plaintiffs,

17 v.
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19 STATE OF NEVADA, NEVADA
20 DEPARTMENT OF CORRECTIONS, and
DOES 1-50,

21 Defendant(s).
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23
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26
27
28

Case No.: 3:14-cv-00320-LRH-WGC

**NOTICE OF PENDENCY OF FLSA
COLLECTIVE ACTION LAWSUIT**

1 TO: All current and former non-exempt hourly paid employees who were employed by
2 the State of Nevada, Nevada Department of Corrections (“NDOC”) as correctional officers at any
time from May 12, 2011 to the present.

3 RE: Fair Labor Standards Act lawsuit filed against the STATE OF NEVADA,
4 NEVADA DEPARTMENT OF CORRECTIONS.

5 **INTRODUCTION**

6 The purpose of this notice is to:

- 7 1) inform you of the existence of a lawsuit seeking recovery of unpaid overtime
8 compensation under the Fair Labor Standards Act (“FLSA”) in which you may be
9 “similarly situated” to named-Plaintiffs DONALD WALDEN JR., NATHAN
10 ECHEVERRIA, AARON DICUS, BRENT EVERIST, TRAVIS ZUFELT,
11 TIMOTHY RIDENOUR, and DANIEL TRACY;
12 2) advise you of how your rights may be affected by this lawsuit; and
13 3) instruct you on the procedure for participating in this lawsuit, if you choose to do
14 so.

15 This Notice is not an expression by the court of any opinion as to the merits of any claims
16 or defenses asserted by any party to this action.

17 **DESCRIPTION OF THE LAWSUIT**

18 On May 12, 2014, Plaintiffs DONALD WALDEN JR., NATHAN ECHEVERRIA,
19 AARON DICUS, BRENT EVERIST, TRAVIS ZUFELT, TIMOTHY RIDENOUR, and
20 DANIEL TRACY (“Plaintiffs”) filed a class and collective action complaint against the STATE
21 OF NEVADA, NEVADA DEPARTMENT OF CORRECTIONS, and DOES 1 through 50,
22 inclusive (referred to throughout the rest of this Notice as “NDOC” or “Defendants”). Plaintiffs
23 filed the class and collective action lawsuit on behalf of themselves and all other similarly situated
24 employees, for unpaid wages under the FLSA and Nevada state law. Specifically, Plaintiffs claim
25 that NDOC forced employees to work without overtime compensation. Plaintiffs seek to recover
26 back pay in an amount equal to the alleged unpaid overtime wages and liquidated damages
27 (double damages) on behalf of themselves and all other similarly situated individuals resulting
28 from NDOC’s alleged unlawful conduct as well as other damages provided by law. Plaintiffs
have also brought various state law claims arising out of the same behavior but those claims are
not at issue in this Notice.

Defendant denies Plaintiffs’ claims and denies that it is liable to Plaintiffs for any damages
resulting from this lawsuit.

1 These decisions and agreements made and entered into by the representative Plaintiffs
 2 will be binding on you if you join this lawsuit. However, the court has jurisdiction to determine
 3 the reasonableness of any settlement with NDOC, and any agreement concerning the
 4 reasonableness of any attorneys' fees and costs that are to be paid to the Plaintiffs' counsel.
 5 Additionally, any settlement amount that exceeds the State statutory cap currently in effect
 pursuant to NRS 41.035 must be presented to the Board of Examiners of the State of Nevada for
 their approval. This is not to say that the cap applies in this action, but that certain settlement
 amounts which exceed the cap require approval.

6 The attorney for the Plaintiffs class is being paid on a contingency fee basis, which means
 7 that if there is no recovery there will be no attorneys' fee. If Plaintiffs prevail in this litigation,
 8 the attorneys for the class will request that the court either determine or approve the amount of
 9 attorneys' fee and costs they are entitled to receive for their services. The FLSA provides only
 for attorney fees for the Plaintiffs, if successful, and not for NDOC, although a Court could award
 NDOC attorneys' fees for misconduct or other reasons not covered by this statute.

10 **LEGAL EFFECT IN NOT JOINING THIS SUIT**

11 You do not have to join this lawsuit. If you do not wish to participate in this lawsuit, then
 12 do nothing. If you choose not to join this lawsuit, you will not be affected by any judgment,
 13 dismissal, or settlement rendered in this lawsuit, whether favorable or unfavorable to the class.
 14 This means that if Plaintiffs win, you will not collect any money from this lawsuit; if Plaintiffs
 15 lose, you will not lose any claims you may or may not have under the FLSA. If you choose not
 to join this lawsuit you are free to file your own lawsuit.

16 **STATUTE OF LIMITATIONS ON POTENTIAL CLAIMS**

17 The maximum period of time that you can collect unpaid wages under the FLSA is three
 18 (3) years from when you worked the hours, but were not paid at least minimum wage, your regular
 19 rate, or the legally correct overtime rate. If the Plaintiffs cannot prove NDOC acted willfully, the
 statute of limitations is two years. The statute of limitations continues to expire until you file with
 the court a written consent to join this lawsuit, or initiate your own lawsuit to collect your unpaid
 wages.

20 **NO RETALIATION PERMITTED**

21 Federal Law prohibits Defendant from discharging you or in any other manner
 22 discriminating against you if you exercise your rights under the FLSA to seek compensation.
 23 *Participation in this lawsuit is not related or affected by any offer of severance benefits or*
 24 *release you may have recently signed.*

25 **YOUR IMMIGRATION STATUS DOES NOT MATTER IN THIS CASE**

26 You are entitled to back pay for the alleged unpaid wages and liquidated damages under
 27 the FLSA even if you are not otherwise legally entitled to work in the United States. Bringing a
 28 claim in the court for unpaid wages is not a basis for you to be deported from the United States.

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YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this lawsuit and agree to be represented by the named Plaintiffs through their attorneys, your counsel in this action will be:

Mark R. Thierman and Joshua D. Buck
Thierman Buck, LLP
7287 Lakeside Drive
Reno, NV 89511
775-284-1500
Email: info@thiermanbuck.com
www.thiermanlaw.com

FURTHER INFORMATION

Further information about this Notice, the deadline for filing a “Consent to Join” form, or questions about this lawsuit may be obtained by contacting the Thierman Law Firm at the contact information listed immediately above.

The court has taken no position in this case regarding the merits of the Plaintiffs’ claims or of the Defendant’s defenses.

DO NOT CONTACT THE CLERK OF THE COURT

DATED:

U.S. DISTRICT COURT JUDGE

EXHIBIT B

EXHIBIT B

THIERMAN BUCK LLP

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**[AMENDED PROPOSED] CONSENT TO
JOIN**

Pursuant to the Fair Labor Standards Act, 29 U.S.C.S. § 216(b), the undersigned hereby consents in writing to become a party plaintiff against my Employer, or Former Employer. I authorize the filing of a copy of this consent form with this Court in this action or any related or successor actions. I further consent to join this and/or any subsequent or amended suit against the same or related defendant for wage and hour violations.

Dated this ____ day of _____, 2015

Name: _____
(Please Print)

Signature: _____

Employer: _____

In the last 6 years, I worked as a Correctional Officer for the State of Nevada at the following locations:

	FACILITY	APPROXIMATE DATES
1.		
2.		
3.		
4.		
5.		

The following contact information below will be redacted before filing with the Court:

Address: _____

City: _____ State: _____ Zip: _____

Email: _____

Telephone: _____

Are you a member of any Labor Organization, and if so, which: _____

Please return via Fax, Email or U.S. Mail to:

[insert claims administrator information]